

CLERK OF DISTRICT COURT
NORTHERN DIST. OF TX
FORT WORTH DIVISION
FILED

2020 06 19

APPLICATION FOR MANDAMUS § 1361

Plaintiff

HEON JONG
YOO, @ ~~ES~~

DEPUTY CLERK Mr

APPLICANT, PETITIONER, PLAINTIFF

V.

4-20CV-665-P

Defendant

FBI NICS ~~REDACTED~~
RESPONDANT, DEFENDANT.

I, HEON JONG YOO, aka Hank Yoo, the petitioner in this application, respectfully applies for the writ of MANDAMUS under 28 USC § 1361 to compel the FEDERAL BUREAU OF INVESTIGATION NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM to correct and remove the erroneous, fraudulent, and malicious label of 18 USC § 922(g)(4): Adjudicated mentally Defective/Committed to a mental institution, labelling me a prohibited person. (NICS #: NRI 16 30406673, NRI 1726660288)

Jurisdiction

The federal district courts have the original jurisdiction for the writ of mandamus against a government under 28 USC § 1361 for corrective mandate, also under 18 USC § 925A: Remedy for erroneous denial.

Parties Interested Parties.

- 1 YOU, HEON JONG (aka Hank You)
FMC FORT WORTH # 27731-078
PO BOX 15330
Fort Worth, Texas 76119.
Plaintiff, Petitioner.
- 2 The FEDERAL BUREAU OF INVESTIGATION
NATIONAL INSTANT CRIMINAL BACKGROUND ^{CHECK} ~~SYSTEM~~ SYSTEM.
<< Could not find the address >>
Defendant, Respondant
- 3 Charles Van Cleef. State Bar No. 00786305
Van Cleef Law Office
P.O. BOX 2432.
Longview Texas 75606.
charles @ vancleef. pro.
The appellate attorney for the case ~~19-40465~~ 19-40465.

* RUID report numbers are

13-15051 ROA. 19-40465.222.
15-~~6000~~600199

I STATEMENT OF FACTS.

On 20130405, the Rutgers Police Department transported ~~me~~ me to the Robert Wood Johnson University Hospital Emergency Room. ROA. 19-40465.3402-3407. Shortly after, I was transported to the Carrier Clinic. A hearing was scheduled on 20130423, however I was released prior to the hearing on 20130419 under administrative discharge, and the hearing never took place. ~~ROA. 19-40465.3212~~ ROA. 19-40465.3212. The FBI NICS labelled me "adjudicated mentally defective" and never informed me of the entry.

On 20150921, the Rutgers Police Department transported me to the Robert Wood Johnson University Hospital Emergency Room. ROA. 19-40465.3411-3412. Shortly after, I was transported to the Carrier Clinic. A hearing was scheduled on 20151006, however I was released prior to the hearing on 20150930 under administrative discharge, and the hearing never took place. ROA. 19-40465.3215. The FBI NICS labelled me "adjudicated mentally defective/committed to a mental institution" and never informed me of the entry.

On 20180406, the FBI and the ATF arrested me in Tyler, Texas. I was charged with 18 USC § 924(a)(1)(A) and 922(a)(6), which was superce

* 924(a)(1)(A) counts are still on direct appeal.
with 922(g)(4) and 924(a)(1)(A). The trial occurred from 2018/11/3 to 2018/11/5, and the jury returned guilty verdict on all counts. ROA.19-40465-1160-1161. I appealed the conviction, sentence, and forfeiture to the 5th Circuit. On 2020/06/04, the panel reversed the conviction for 922(g)(4). ROA.19-40465.229; the case ~~229~~ 19-40465 court's opinion.

II Argument

The 5th Circuit Panel reversed the conviction for 922(g)(4) based on the fact: there was no adversary hearing which the due process for mental health commitment required, ~~from 34 USC 4091(c)(1)(C)~~ and I was administratively discharged prior to the hearing on both occasions. See 34 USC § ~~4091~~ 4091(c)(1)(C); Addington v. Texas 441 U.S. 418, 425, 99 S. Ct 1804, 1809 (1979); US v. Rehlander, 666 F.3d 45, 48 (1st Cir. 2012) citing DC v. Heller 554 U.S. 570, 128 S.Ct. 2783, 171 L.Ed 2d 637 (2008); US v. Giordina 861 F.2d 1334 (5th Cir 1988) for further reference. Because I ~~was~~ never went through an adversary hearing, the FBI NICS should have NEVER labelled me "adjudicated mentally defective / committed to a mental institution". However due to the FBI NICS' incomp malice, or both, I suffered significant irreparable

harm and undue burden, including but not limited to current imprisonment and disqualification from military enlistment; not just firearm purchase denial.

I also raised the issue of not being notified by the FBI NICS, as I am entitled to by 34 USC § 40911 (c)(3). ROA. ~~19~~ 19-40465. 3130-3131, 3148, 3149, 3137-3138. The FBI NICS', not failure, but refusal to notify me has resulted with my inability to promptly challenge the fraudulent entries to pursue my dream career: the US military, along with other goals in my life. This is a significant misconduct, if not criminal conduct, by the FBI NICS staff especially Brian Barker. For reasons unknown, the 5th Circuit Panel for the case 19-40465 refused to address this argument. ~~The~~ ~~Panel~~ and did not ~~even~~ even mention this argument nor fact once within their opinion. See *Rehaif v. US* 139 S. Ct. 2191, 204 L-Ed 2d 514 (2019).

CONCLUSION

I should have NEVER been labelled 922(g)(4) prohibited person. ~~is~~ with the FBI NICS system. pursuant ~~to~~ to the letter and color of the law. However, I was fraudulently labelled as such, and was never notified of

* Also see 18 USC § 925A

them, which has greatly caused me undue burden and irreparable harm, depriving me of life, liberty, and property without the due process of the law. This must ~~be~~ stop and be immediately properly remedied. Therefore, I respectfully request the court to compel FBI NICS to remove the ~~2~~ ~~9~~ two 922(g)(4) prohibited person labelling entries:

For 2013, NRI 1630406673 922(g)(4) dating 20130419

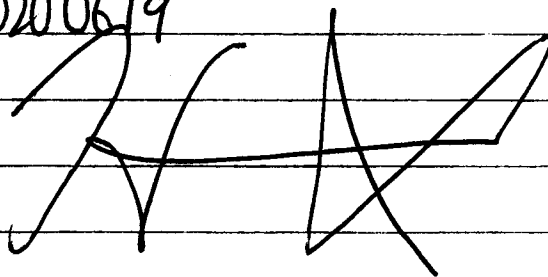
For 2015, NRI 1726660288. 922(g)(4) dating 20150925

(See ROA 19-40465. 3129-3131, 4108, 3135)

⟨ I repeat,
NRI 1630406673, NRI 1726660288 ⟩

* I tried to find the address for FBI NICS, with no avail. Also due to nationwide BOP lockdown, I cannot access ROA disk at the moment. I cited all ROA numbers relying on a paper-copp of my attorney's principle brief. for the case 19-40465.

HEON JONG YOO, ^{aka.} Hank Yoo
20200619

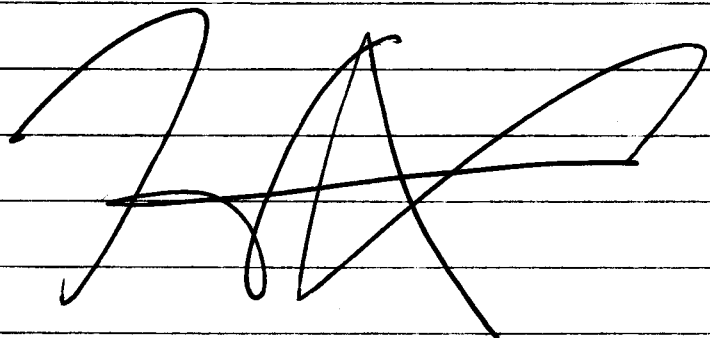


NOTICE OF INMATE FILING.

I am currently incarcerated in FMC FT WORTH.
I am handing this 28 USC §1361 petition to
a guard on 20200622 approximately 1200 hours,
who will put it into an outgoing mail box

I declare under the penalty of perjury that
this is true. (28 USC § 1746)

Thank you
20200622

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

REQUEST

NOTICE TO THE COURT

CLERK OF DISTRICT COURT
NORTHERN DIST. OF TX
FOR NORTH DIVISION
RECEIVED

2020 JUN 26 AM 11:01

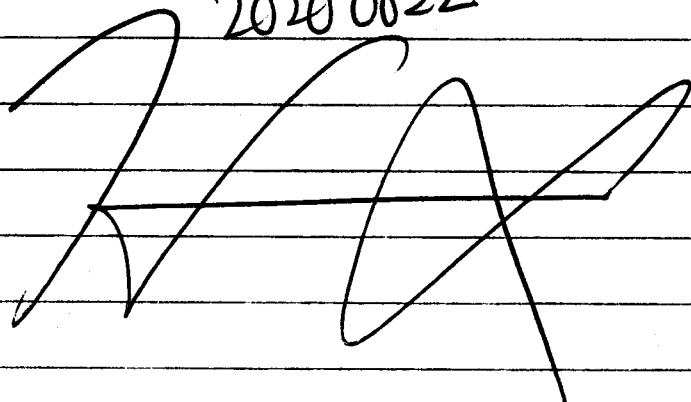
I plan to proceed IFP. I require the standard North Texas District Court IFP ^{DAW} form.

I am respectfully requesting the clerk to mail me the standard MOTION TO PROCEED IN FORMA PAUPERIS form, along with the case number that will be assigned to this case.

4-20CV-665-P

Hank Ye

2020 0622



HEON JONG, YOO (aka Hank Yoo)

27731-078

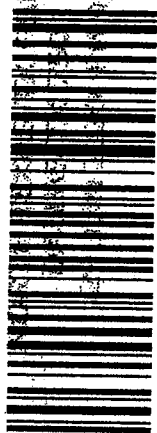
FMC FW

PO BOX 15330

FW, TX 76119

LEGAL MAIL

CERTIFIED MAIL



7019 2970 0001 6394 4303

Clerk's Office

US District Court

501 W Tenth St Rm 310

Fort Worth, Texas 76102

